

REMARKS

INTRODUCTION:

Claims 1-3, 7-10, 12-15, and 18-23 are pending and under consideration.

ALLOWABLE SUBJECT MATTER:

In the Office Action, at page 3, item 5, the Examiner indicated that claims 2 and 3 would be allowable if rewritten in independent form. Applicants hold rewriting of these claims in abeyance until the Examiner has had the opportunity to review the arguments presented herein.

DOUBLE PATENTING REJECTIONS:

In the Office Action, at page 2, item 3, the Examiner rejected claims 1, 9, 15, and 18-23 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 7, 13, 23, and 24 of co-pending Application No. 10/677,334 (your reference: SM2003-589.US, our docket: 1594.1269). The reasons for the rejections are set forth in the Office Action and therefore not repeated. Applicants traverse these rejections and respectfully request reconsideration.

In the Office Action, at page 3, item 4, the Examiner rejected claims 7, 8, 10, and 12-14 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-17 of co-pending Application No. 10/677,334 in view of Frohbieter (U.S. Patents 4,732,009 and 4,732,014 – hereinafter, collectively, Frohbieter). The reasons for the rejections are set forth in the Office Action and therefore not repeated. Applicants traverse these rejections and respectfully request reconsideration.

MPEP 1504.06 states: “[i]f a provisional double patenting rejection (of any type) is the only rejection remaining in two conflicting applications, the examiner should withdraw that rejection in one of the applications (e.g., the application with the earlier filing date) and permit the application to issue as a patent. The examiner should maintain the provisional double patenting rejection in the other application which rejection will be converted into a double patenting rejection when the first application issues as a patent.”

The subject application was filed in the U.S. on September 26, 2003, and co-pending Application No. 10/677,334 was filed in the U.S. on October 3, 2003, and thus, the subject application has the earlier filing date.

Since the only remaining rejections in the subject application are the provisional double patenting rejections with respect to later-filed co-pending Application No. 10/677,334, Applicants respectfully submit that the Examiner should allow the subject application to issue as a patent and maintain the provisional rejection in co-pending Application No. 10/677,334, in accordance with MPEP 1504.06.

Accordingly, Applicants respectfully submit that the subject application is in condition for allowance.

CONCLUSION:

In accordance with the foregoing, Applicants respectfully submit that all outstanding objections and rejections have been overcome and/or rendered moot, and further, that all pending claims patentably distinguish over the cited art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited by the Examiner contacting the undersigned attorney for a telephone interview to discuss resolution of such issues.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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